

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 1:17-cr-057
Also 1:19-cv-830

- vs -

District Judge Susan J. Dlott
Magistrate Judge Michael R. Merz

ERIC ZYN HO,

Defendant. :

ORDER

This § 2255 case is before the Court on Motions of Defendant Eric Zyn Ho for production of “the transcripts associated with the above-styled case.” (Notice, ECF No. 87, PageID 332). Later he filed a Motion for Leave to Proceed *in forma pauperis* in which he avers that he cannot “prepay the fees for my transcripts.” (ECF No. 90, PageID 337.)

After final judgment in this case, Defendant was granted leave to appeal *in forma pauperis* (ECF No. 83). However, the case was dismissed in the Court of Appeals before transcripts were prepared. As an indigent, Defendant had the right to a free transcript in support of his appeal. *Griffin v. Illinois*, 351 U.S. 12 (1956). However, that right does not extend to a free transcript for purposes of a motion to vacate under 28 U.S.C. § 2255.

Because it appears the transcripts of the plea colloquy and sentencing may be material to deciding the§ 2255 motion, the Magistrate Judge has ordered those transcripts to be created, but has no authority to order either the court reporter or the Clerk to furnish free copies to Defendant.

Defendant's motions for free transcripts (ECF Nos. 87 & 90) are DENIED.

October 3, 2019.

s/ *Michael R. Merz*
United States Magistrate Judge